

AMENDED IN SENATE JUNE 24, 2014

AMENDED IN SENATE JUNE 19, 2014

AMENDED IN SENATE JUNE 3, 2014

AMENDED IN ASSEMBLY MARCH 17, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1511

Introduced by Assembly Member Beth Gaines

January 14, 2014

An act to amend Section 13300 of, and to add Section 11105.07 to, the Penal Code, relating to criminal history information.

LEGISLATIVE COUNSEL'S DIGEST

AB 1511, as amended, Beth Gaines. Criminal history information: animal control officers.

Existing law requires the Department of Justice to maintain state summary criminal history information, including the identification and criminal history of any person, which may include his or her name, date of birth, physical description, fingerprints, photographs, dates of arrest, arresting agencies and booking numbers, charges, dispositions, and similar data about the person. Existing law authorizes the department, upon a showing of compelling need, to furnish this information in response to a request from certain authorized agencies, organizations, or individuals, including a public utility.

Existing law similarly provides for the disclosure of local summary criminal history information by a local criminal justice agency, upon a showing of compelling need, to certain authorized agencies, organizations, or individuals.

Existing law makes it a misdemeanor for a person authorized by law to receive state summary criminal history information to knowingly furnish it to a person not authorized by law to receive it.

This bill would authorize an animal control officer, when necessary for the performance of his or her official duties, to obtain state summary criminal history information from a criminal justice agency. The bill would require the criminal justice agency, upon a showing of compelling need, to provide the animal control officer with information obtained from the California Law Enforcement Telecommunication Systems (CLETS). The bill would require the criminal justice agency to provide this information to the animal control officer in a timely manner and would permit the criminal justice agency to charge a reasonable fee sufficient to cover the costs of providing that information. The bill would prohibit an animal control officer who receives that information from using it for any purpose other than the performance of his or her official duties. By requiring local criminal justice agencies to provide this information and by expanding the scope of a crime, the bill would impose a state-mandated local program.

This bill would also authorize local criminal justice agencies to provide local summary criminal history information to an animal control officer for the purposes of performing his or her official duties. The bill would permit a local agency to charge a reasonable fee sufficient to cover the costs of providing that information. By requiring local criminal justice agencies to provide this information and by expanding the scope of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11105.07 is added to the Penal Code, to
- 2 read:
- 3 11105.07. (a) An animal control officer, when necessary for
- 4 performing his or her official duties, shall provide a compelling

1 reason to an appropriate criminal justice agency to obtain state
2 summary criminal history information.

3 (b) Upon a showing of compelling need, the criminal justice
4 agency shall respond to the animal control officer with information
5 obtained through the California Law Enforcement
6 Telecommunications Systems (CLETS). The criminal justice
7 agency shall provide this information to the animal control officer
8 in a timely manner. A criminal justice agency may charge a
9 reasonable fee sufficient to cover the costs of providing information
10 pursuant to this subdivision.

11 (c) An animal control officer who receives state summary
12 criminal history information pursuant to this section shall not use
13 that information for any purpose other than for the performance
14 of his or her official duties.

15 (d) A law enforcement officer or other person authorized by
16 law to provide *or receive* information obtained through CLETS
17 pursuant to this section who knowingly furnishes the record or
18 information to a person who is not authorized by law to receive
19 that information is guilty of violating Section 11142.

20 (e) For the purposes of this section, an animal control officer is
21 a person authorized to exercise the powers specified in Section
22 830.9.

23 SEC. 2. Section 13300 of the Penal Code is amended to read:

24 13300. (a) As used in this section:

25 (1) “Local summary criminal history information” means the
26 master record of information compiled by any local criminal justice
27 agency pursuant to Chapter 2 (commencing with Section 13100)
28 of Title 3 of Part 4 pertaining to the identification and criminal
29 history of any person, such as name, date of birth, physical
30 description, dates of arrests, arresting agencies and booking
31 numbers, charges, dispositions, and similar data about the person.

32 (2) “Local summary criminal history information” does not
33 refer to records and data compiled by criminal justice agencies
34 other than that local agency, nor does it refer to records of
35 complaints to or investigations conducted by, or records of
36 intelligence information or security procedures of, the local agency.

37 (3) “Local agency” means a local criminal justice agency.

38 (b) A local agency shall furnish local summary criminal history
39 information to any of the following, when needed in the course of
40 their duties, provided that when information is furnished to assist

1 an agency, officer, or official of state or local government, a public
2 utility, or any entity, in fulfilling employment, certification, or
3 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
4 432.7 of the Labor Code shall apply:

5 (1) The courts of the state.

6 (2) Peace officers of the state, as defined in Section 830.1,
7 subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b),
8 and (j) of Section 830.3, and subdivisions (a), (b), and (c) of
9 Section 830.5.

10 (3) District attorneys of the state.

11 (4) Prosecuting city attorneys of any city within the state.

12 (5) City attorneys pursuing civil gang injunctions pursuant to
13 Section 186.22a, or drug abatement actions pursuant to Section
14 3479 or 3480 of the Civil Code, or Section 11571 of the Health
15 and Safety Code.

16 (6) Probation officers of the state.

17 (7) Parole officers of the state.

18 (8) A public defender or attorney of record when representing
19 a person in proceedings upon a petition for a certificate of
20 rehabilitation and pardon pursuant to Section 4852.08.

21 (9) A public defender or attorney of record when representing
22 a person in a criminal case, or a parole, mandatory supervision, or
23 postrelease community supervision revocation or revocation
24 extension hearing, and when authorized access by statutory or
25 decisional law.

26 (10) Any agency, officer, or official of the state when the local
27 summary criminal history information is required to implement a
28 statute, regulation, or ordinance that expressly refers to specific
29 criminal conduct applicable to the subject person of the local
30 summary criminal history information, and contains requirements
31 or exclusions, or both, expressly based upon the specified criminal
32 conduct.

33 (11) Any city, county, city and county, or district, or any officer
34 or official thereof, when access is needed in order to assist the
35 agency, officer, or official in fulfilling employment, certification,
36 or licensing duties, and when the access is specifically authorized
37 by the city council, board of supervisors, or governing board of
38 the city, county, or district when the local summary criminal history
39 information is required to implement a statute, regulation, or
40 ordinance that expressly refers to specific criminal conduct

1 applicable to the subject person of the local summary criminal
2 history information, and contains requirements or exclusions, or
3 both, expressly based upon the specified criminal conduct.

4 (12) The subject of the local summary criminal history
5 information.

6 (13) Any person or entity when access is expressly authorized
7 by statute when the local summary criminal history information
8 is required to implement a statute, regulation, or ordinance that
9 expressly refers to specific criminal conduct applicable to the
10 subject person of the local summary criminal history information,
11 and contains requirements or exclusions, or both, expressly based
12 upon the specified criminal conduct.

13 (14) Any managing or supervising correctional officer of a
14 county jail or other county correctional facility.

15 (15) Local child support agencies established by Section 17304
16 of the Family Code. When a local child support agency closes a
17 support enforcement case containing summary criminal history
18 information, the agency shall delete or purge from the file and
19 destroy any documents or information concerning or arising from
20 offenses for or of which the parent has been arrested, charged, or
21 convicted, other than for offenses related to the parents having
22 failed to provide support for the minor children, consistent with
23 Section 17531 of the Family Code.

24 (16) County child welfare agency personnel who have been
25 delegated the authority of county probation officers to access state
26 summary criminal information pursuant to Section 272 of the
27 Welfare and Institutions Code for the purposes specified in Section
28 16504.5 of the Welfare and Institutions Code.

29 (17) A humane officer appointed pursuant to Section 14502 of
30 the Corporations Code, for the purposes of performing his or her
31 duties. A local agency may charge a reasonable fee sufficient to
32 cover the costs of providing information pursuant to this paragraph.

33 (c) The local agency may furnish local summary criminal history
34 information, upon a showing of a compelling need, to any of the
35 following, provided that when information is furnished to assist
36 an agency, officer, or official of state or local government, a public
37 utility, or any entity, in fulfilling employment, certification, or
38 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
39 432.7 of the Labor Code shall apply:

1 (1) Any public utility, as defined in Section 216 of the Public
2 Utilities Code, which operates a nuclear energy facility when access
3 is needed to assist in employing persons to work at the facility,
4 provided that, if the local agency supplies the information, it shall
5 furnish a copy of this information to the person to whom the
6 information relates.

7 (2) To a peace officer of the state other than those included in
8 subdivision (b).

9 (3) An animal control officer, authorized to exercise powers
10 specified in Section 830.9, for the purposes of performing his or
11 her official duties. A local agency may charge a reasonable fee
12 sufficient to cover the costs of providing information pursuant to
13 this paragraph.

14 (4) To a peace officer of another country.

15 (5) To public officers, other than peace officers, of the United
16 States, other states, or possessions or territories of the United
17 States, provided that access to records similar to local summary
18 criminal history information is expressly authorized by a statute
19 of the United States, other states, or possessions or territories of
20 the United States when this information is needed for the
21 performance of their official duties.

22 (6) To any person when disclosure is requested by a probation,
23 parole, or peace officer with the consent of the subject of the local
24 summary criminal history information and for purposes of
25 furthering the rehabilitation of the subject.

26 (7) The courts of the United States, other states, or territories
27 or possessions of the United States.

28 (8) Peace officers of the United States, other states, or territories
29 or possessions of the United States.

30 (9) To any individual who is the subject of the record requested
31 when needed in conjunction with an application to enter the United
32 States or any foreign nation.

33 (10) Any public utility, as defined in Section 216 of the Public
34 Utilities Code, when access is needed to assist in employing
35 persons who will be seeking entrance to private residences in the
36 course of their employment. The information provided shall be
37 limited to the record of convictions and any arrest for which the
38 person is released on bail or on his or her own recognizance
39 pending trial.

1 If the local agency supplies the information pursuant to this
2 paragraph, it shall furnish a copy of the information to the person
3 to whom the information relates.

4 Any information obtained from the local summary criminal
5 history is confidential and the receiving public utility shall not
6 disclose its contents, other than for the purpose for which it was
7 acquired. The local summary criminal history information in the
8 possession of the public utility and all copies made from it shall
9 be destroyed 30 days after employment is denied or granted,
10 including any appeal periods, except for those cases where an
11 employee or applicant is out on bail or on his or her own
12 recognizance pending trial, in which case the state summary
13 criminal history information and all copies shall be destroyed 30
14 days after the case is resolved, including any appeal periods.

15 A violation of any of the provisions of this paragraph is a
16 misdemeanor, and shall give the employee or applicant who is
17 injured by the violation a cause of action against the public utility
18 to recover damages proximately caused by the violation.

19 Nothing in this section shall be construed as imposing any duty
20 upon public utilities to request local summary criminal history
21 information on any current or prospective employee.

22 Seeking entrance to private residences in the course of
23 employment shall be deemed a “compelling need” as required to
24 be shown in this subdivision.

25 (11) Any city, county, city and county, or district, or any officer
26 or official thereof, if a written request is made to a local law
27 enforcement agency and the information is needed to assist in the
28 screening of a prospective concessionaire, and any affiliate or
29 associate thereof, as these terms are defined in subdivision (k) of
30 Section 432.7 of the Labor Code, for the purposes of consenting
31 to, or approving of, the prospective concessionaire’s application
32 for, or acquisition of, any beneficial interest in a concession, lease,
33 or other property interest.

34 Any local government’s request for local summary criminal
35 history information for purposes of screening a prospective
36 concessionaire and their affiliates or associates before approving
37 or denying an application for, or acquisition of, any beneficial
38 interest in a concession, lease, or other property interest is deemed
39 a “compelling need” as required by this subdivision. However,

1 only local summary criminal history information pertaining to
2 criminal convictions may be obtained pursuant to this paragraph.

3 Any information obtained from the local summary criminal
4 history is confidential and the receiving local government shall
5 not disclose its contents, other than for the purpose for which it
6 was acquired. The local summary criminal history information in
7 the possession of the local government and all copies made from
8 it shall be destroyed not more than 30 days after the local
9 government's final decision to grant or deny consent to, or approval
10 of, the prospective concessionaire's application for, or acquisition
11 of, a beneficial interest in a concession, lease, or other property
12 interest. Nothing in this section shall be construed as imposing
13 any duty upon a local government, or any officer or official thereof,
14 to request local summary criminal history information on any
15 current or prospective concessionaire or their affiliates or
16 associates.

17 (12) A public agency described in subdivision (b) of Section
18 15975 of the Government Code, for the purpose of oversight and
19 enforcement policies with respect to its contracted providers.

20 (d) Whenever an authorized request for local summary criminal
21 history information pertains to a person whose fingerprints are on
22 file with the local agency and the local agency has no criminal
23 history of that person, and the information is to be used for
24 employment, licensing, or certification purposes, the fingerprint
25 card accompanying the request for information, if any, may be
26 stamped "no criminal record" and returned to the person or entity
27 making the request.

28 (e) A local agency taking fingerprints of a person who is an
29 applicant for licensing, employment, or certification may charge
30 a fee to cover the cost of taking the fingerprints and processing
31 the required documents.

32 (f) Whenever local summary criminal history information
33 furnished pursuant to this section is to be used for employment,
34 licensing, or certification purposes, the local agency shall charge
35 the person or entity making the request a fee which it determines
36 to be sufficient to reimburse the local agency for the cost of
37 furnishing the information, provided that no fee shall be charged
38 to any public law enforcement agency for local summary criminal
39 history information furnished to assist it in employing, licensing,
40 or certifying a person who is applying for employment with the

1 agency as a peace officer or criminal investigator. Any state agency
2 required to pay a fee to the local agency for information received
3 under this section may charge the applicant a fee sufficient to
4 reimburse the agency for the expense.

5 (g) Whenever there is a conflict, the processing of criminal
6 fingerprints shall take priority over the processing of applicant
7 fingerprints.

8 (h) It is not a violation of this article to disseminate statistical
9 or research information obtained from a record, provided that the
10 identity of the subject of the record is not disclosed.

11 (i) It is not a violation of this article to include information
12 obtained from a record in (1) a transcript or record of a judicial or
13 administrative proceeding or (2) any other public record when the
14 inclusion of the information in the public record is authorized by
15 a court, statute, or decisional law.

16 (j) Notwithstanding any other law, a public prosecutor may, in
17 response to a written request made pursuant to Section 6253 of
18 the Government Code, provide information from a local summary
19 criminal history, if release of the information would enhance public
20 safety, the interest of justice, or the public's understanding of the
21 justice system and the person making the request declares that the
22 request is made for a scholarly or journalistic purpose. If a person
23 in a declaration required by this subdivision willfully states as true
24 any material fact that he or she knows to be false, he or she shall
25 be subject to a civil penalty not exceeding ten thousand dollars
26 (\$10,000). The requestor shall be informed in writing of this
27 penalty. An action to impose a civil penalty under this subdivision
28 may be brought by any public prosecutor and shall be enforced as
29 a civil judgment.

30 (k) Notwithstanding any other law, the Department of Justice
31 or any state or local law enforcement agency may require the
32 submission of fingerprints for the purpose of conducting summary
33 criminal history information record checks which are authorized
34 by law.

35 (l) Any local criminal justice agency may release, within five
36 years of the arrest, information concerning an arrest or detention
37 of a peace officer or applicant for a position as a peace officer, as
38 defined in Section 830, which did not result in conviction, and for
39 which the person did not complete a postarrest diversion program

1 or a deferred entry of judgment program, to a government agency
2 employer of that peace officer or applicant.

3 (m) Any local criminal justice agency may release information
4 concerning an arrest of a peace officer or applicant for a position
5 as a peace officer, as defined in Section 830, which did not result
6 in conviction but for which the person completed a postarrest
7 diversion program or a deferred entry of judgment program, or
8 information concerning a referral to and participation in any
9 postarrest diversion program or a deferred entry of judgment
10 program to a government agency employer of that peace officer
11 or applicant.

12 (n) Notwithstanding subdivision (l) or (m), a local criminal
13 justice agency shall not release information under the following
14 circumstances:

15 (1) Information concerning an arrest for which diversion or a
16 deferred entry of judgment program has been ordered without
17 attempting to determine whether diversion or a deferred entry of
18 judgment program has been successfully completed.

19 (2) Information concerning an arrest or detention followed by
20 a dismissal or release without attempting to determine whether the
21 individual was exonerated.

22 (3) Information concerning an arrest without a disposition
23 without attempting to determine whether diversion has been
24 successfully completed or the individual was exonerated.

25 SEC. 3. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 a local agency or school district has the authority to levy service
28 charges, fees, or assessments sufficient to pay for the program or
29 level of service mandated by this and because other costs that may
30 be incurred by a local agency or school district will be incurred
31 because this act creates a new crime or infraction, eliminates a
32 crime or infraction, or changes the penalty for a crime or infraction,
33 within the meaning of Section 17556 of the Government Code, or
34 changes the definition of a crime within the meaning of Section 6
35 of Article XIII B of the California Constitution.

36 SEC. 4. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

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